

63H-2-404 Obligee rights -- Board may confer other rights.

- (1) In addition to a right that is conferred on an obligee of an authority bond under this chapter and subject to contractual restrictions binding on the obligee, an obligee may:
 - (a) by mandamus, suit, action, or other proceeding:
 - (i) compel the authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in a contract of the authority with or for the benefit of the obligee; and
 - (ii) require the authority to carry out the covenants and agreements of the authority and to fulfill the duties imposed on the authority by this part; and
 - (b) by suit, action, or proceeding in equity, enjoin an act or things that may be unlawful or violate the rights of the obligee.
- (2)
 - (a) In a resolution authorizing the issuance of an authority bond or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in an authority bond, a right described in Subsection (2)(b):
 - (i) to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract; and
 - (ii) to be exercised by suit, action, or proceeding in a court of competent jurisdiction.
 - (b)
 - (i) A right that the board may confer under Subsection (2)(a) is a right to:
 - (A) cause possession of all or part of a qualifying energy delivery project to be surrendered to an obligee;
 - (B) obtain the appointment of a receiver of all or part of:
 - (I) a qualifying energy delivery project; and
 - (II) the rents and profits from a qualifying energy delivery project; and
 - (C) require the authority, its board, and its employees to account as if the authority, board, and employees were the trustees of an express trust.
 - (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:
 - (A) may:
 - (I) enter and take possession of a qualifying energy delivery project or any part of the qualifying energy delivery project;
 - (II) operate and maintain the qualifying energy delivery project; and
 - (III) collect and receive the fees, rents, revenues, or other charges arising from the qualifying energy delivery project after the receiver's appointment; and
 - (B) shall:
 - (I) keep money collected as receiver for the authority in one or more separate accounts; and
 - (II) apply the money collected as receiver pursuant to the authority obligations as the court directs.

Amended by Chapter 37, 2012 General Session